

Remarks/Arguments

Claims 1, 2, 8-10, 26 - 29 are pending in the application. With this amendment, claim 1 is amended.

Support for the amendment to claim 1 can be found, for example, in the originally filed specification, at page 3, line 31. No new matter has been added.

Rejection of Claims 1, 2, 8-10 and 26-29 under 35 U.S.C. § 112

All pending claims stand rejected under 35 U.S.C. § 112 because of use of the term "emulsion polymerized" which is not supported by the instant specification. That term has been deleted, thus obviating the grounds under this Section.

Rejection of Claims 1, 2, 8-10 and 26-29 under 35 U.S.C. § 103(a)

All pending claims stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 4,085,265 ("Seib"), and over U.S. Patent No. 6,221,389 ("Cannell") in view of Seib. Applicants respectfully submit that the currently pending claims, as amended, are patentable over these cited references for at least the following reasons.

Applicants' invention, as recited in independent claim 1, as amended, is directed to a personal care composition comprising a water-proofing effective amount of a water dispersible acrylate copolymer emulsion. A copolymer emulsion is obtained by emulsion polymerization. An emulsion would not be obtained by synthesizing the copolymer in a non-aqueous environment, or by any other type of polymerization, e.g. solvent, bulk, etc.

An emulsion is particularly important because it provides a water proofing effect to the personal care composition. Limiting the amount of hydrophobic monomers in the copolymer emulsion to having essentially no hydrophobic monomers having an alkyl group of greater than or equal to C8 provides a highly water proof polymer film when the emulsion is dried, without a heavy greasy feel that is highly undesirable.

The polymerization reaction of Seib may be carried out either in the absence or presence of solvents, such as dioxane, ethanol, dimethylformamide, tetrahydrofuran, isopropanol, methylene chloride, toluene or ethylbenzene. After polymerization and vaporization of solvents used, a polymer melt is obtained (Seib at col. 2, lines 38-46). Seib gives no hint to obtaining a polymer emulsion.

Contrary to the disclosure of Seib, Applicants' invention includes a water dispersible polymerized acrylate copolymer emulsion. Further, one of ordinary skill in the art would understand that a copolymer emulsion is distinguishable from what might be obtained from solution polymerization or mass (or bulk) polymerization. Consequently, because Seib neither discloses nor suggests an acrylate copolymer emulsion, claim 1 is patentable over Seib.

The Office also rejects the instant claims as obvious over Cannell in view of Seib. Cannell discloses aqueous carrier systems based on organic phospholipids capable of forming bilayers in aqueous solutions, nonionic surfactants, and amphoteric surfactants, wherein the carrier systems allow water-insoluble polymers to be incorporated into aqueous solutions (col. 1, lines 12-18). The compositions of Cannell include at least one organic phospholipid, at least one amphoteric surfactant and at least one nonionic surfactant (col. 2, lines 50-56). The Office asserts that Cannell teaches water-insoluble polymers that are unneutralized or partially neutralized. Cannell is silent, however, with respect to the feature of a water dispersible acrylate copolymer emulsion.

It must be noted that the composition of the present invention comprises a water-proofing effective amount of a water dispersible acrylate copolymer emulsion. Cannell discloses a delivery system (col 3 lines 40-50) for water insoluble actives, but does not mention a water proofing affect. The water-insoluble deposited substances,(actives) of Cannell, because of their inherent insolubility, resist being washed off with water, but Cannell does not recognize the function of a water proof system provided by an emulsion.

Accordingly, Applicants' invention, as recited in claim 1, is distinguishable over Cannell. Further, as noted above, Seib does not make up for the deficiency of Cannell

in this regard. Applicants' submit, therefore, that claim 1 is patentable over the combination of Seib and Cannell for at least this reason.

Claims 2, 8-10, 26-29 are also patentable over Seib or Cannell in view of Seib for at least the reasons that claim 1, from which they depend, is patentable, but may be separately patentable for additional reasons as well.

Conclusion

In view of the amendments and arguments set forth above, Applicants respectfully submit that the pending application is in condition for allowance. Notice to this effect is earnestly solicited.

Respectfully submitted,



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